

Abraham Shiver estate

Court of Ordinary minutes related to his estate¹

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Court of Ordinary March Term 1844

Georgia }

Pulaski County }

In the Honorable Inferior Court of said County Sitting as a court of Ordinary March Term 1844

In the matter of the instrument of writing purporting to be the last will and testament of Abraham Shiver late of said County deceased now here propound to and before the court for probate and recorded by John J. Anderson and others therein named purporting to be the Executors thereof. Now comes Elijah Shiver and Burwell Shiver Sons of the said Abraham Shiver by his first wife & Maria Paine & Catharine Paine infants under the age of twenty one years & children of George Paine and his wife Milly the Said Milly being a daughter of the Said Abraham by his ~~Said~~ ["Said" is crossed out and "first" is interlined above it] first wife Said infants being herein represented by Andrew Ard their Guardian and Abraham Shiver who who is twenty one years of age Hetty Shiver, Louisa Shiver, Jefferson B. Shiver and Clementary Shiver - The said last mentioned Abraham Shiver, Hetty Shiver, Louisa Shiver Jefferson B. Shiver & Clementary Shiver being children of Daniel Shiver deceased and his wife, the Said Daniel Shiver being a Son of the said Abraham Shiver deceased by his first wife and who are all except the said Abraham, son of Said Daniel represented herein by their next friend Elijah Shiver and Jacob Shiver Son of Jacob Shiver deceased and [h]is wife the Said Jacob Shiver deceased being a Son of the Said Abraham Shiver deceased by his first wife all of whom are legal heirs at law of and to the Said Abraham Shiver deceased. by Warren & Scarborough and James M. Kelly their Attorneys And for caveat and objection to and against the Probates and Record of Said instrument purporting to [be] the last Will and Testament of the Said last Will and Testament of Said Abraham Shiver deceased who Say that the Same is not the last Will and Testament of the Said Abraham Shiver deceased and for causes of Caveat and objection assign First - That the Said Abraham Shiver deceased was before and at the time of the supposed making of Said instrument purporting to be his last Will & Testament non compos mentis [*non compos mentis, of unsound mind*] and disqualified by law from unsoundness of mind and general imbecility of intellect from making any disposition of his property

Secondly - Because these caveators Say that the said instrument purporting to the last Will and Testament of Said Abraham Shiver deceased is not a voluntary act of free

¹ Pulaski County, Georgia, Court of Ordinary Minutes, 1813-1850, digitized images, FamilySearch (<http://www.familysearch.org> : accessed 29 January 2017).

volition on the part of the Said Abraham Shiver deceased, but was procured to be made in favor of the legatees therein mentioned in exclusion of these caveators by unfair and undue influence exercised over deceased mind when he deceased was old and in his dotage and had in consequence of extreme age, intemperance and mental imbecility become childish.

Thirdly - Because these caveators Say that the Said instrument so purporting to be the last Will & Testament of the Said Abraham Shiver deceased was fraudulently procured from him by wrongful prejudices excited in deceaseds mind against these caveators or Some of them by the legatees in Said instrument mentioned

Fourthly - Because these Caveators Say that the said Abraham Shiver deceased was blind & could not see subscribing witnesses attest said instrument at the time of its supposed publication & because he was drinking ardent or other intoxicating fluid when the Same was supposed to have been made & published and because he was at the time last aforesaid drunk

Fifth Because the disposition of the deceaseds property Sought to be made by Said instrument is unnatural and in arrogation of natural affection and wholly unequal

Sixthly - Because the Said instrument purporting to be the Will and Testament of Said Abraham Shiver deceased was not Signed by the attesting witness and the said Abraham Shiver in presence of Said deceased and each other also because the Same was not made over to the Said deceased

Seventhly - Because the Said Abraham Shiver deceased before & at the time of the making Singning [*Signing*] and supposed publication of Said instrument did not possess testamentary capacity and memory but was of unsound mind and non Sane memory also because the words of Said instrument will not in law pass the property by will of Divise also because Said instrument was not Sealed and published by decedent

Lastly - Because Said instrument was procured from Said Abraham Shiver deceased at the instance of the Supposed legatees therein mentioned by undue influence exerted over the deceaseds mind. and prejudices excited in his mind against the caveators by the Said legatees, or Some of them at a time when deceased was not only in extreme old age, blind and intoxicated by added to these non compes mentis [*non compos mentis, of unsound mind*] for these and divers other good causes, these caveators pray that Said instrument purporting to be the last will and Testament of the Said Abraham Shiver deceased may be denied Probate & Record and Set aside and that letters of administration issue in the regular Court of Law and of all which grounds above assigned pray may be inquired into by the Court

James M. Kelly
Warren & Scarborough
Attys for Caveators

And John J. Anderson and Bonaparte Shiver two of the Executors named in the last Will and Testament of Abraham Shiver deceased by their attorneys Wm. S. Whitfield & A.H. Hansell say and aver that he was of Sound mind & memory at the time that he executed his last will and Testament and that Said Will was not obtained by any undue influence and is competent in Law to pass the property therein named, that it was a voluntary act of Said Testator, that he was not intoxicated, that no prejudices were engendered by any unfair means in the mind of Said Testator in the presence of the Subscribing witnesses & by them in his presence, and the presence of each other, and was published as his last Will and Testament, and that it is a good and valid Will in law, and this they pray may be enquired into by the Court.

Wm. S. Whitfield }
A.H. Hansell }
Attys for Executors

Georgia } Court of Ordinary
Pulaski County } March Term 1844

The within last will and Testament of Abraham Shiver deceased having been duly proven at this term of court in open court upon the oaths of Ulysses Crutchfield Edward A Burch and Joseph Calhoun the Subscribing witnesses thereto ordered that the Same be admitted to record. J.V. Mitchell C.C.O.

It appearing to the court that the last will and Testament of Abraham Shiver late of Said County deceased has this day been duly proved in open court as the law requires by all three of the Subscribing witnesses thereto it is ordered that the Same be admitted to record and that the Clerk do issue letters testamentary to Bonaparte Shiver and John J. Anderson two of the Executors named & appointed in and by Said Will

And it is further ordered that John Colson Robert Anderson Ichabod Albritton Ulysus Crutchfield and Joseph Calhoun be appointed [*appraisers?*] of Said Estate

Whereas an appeal has been entered by the Caveators in the matter of the will of Abraham Shiver deceased it is ordered by the Court that John J. Anderson be appointed Temporary administrator pendente lite [*pending the litigation*] to collect the assets of the Estate of said Abraham Shiver deceased & that the clerk grant letters to him accordingly upon his taking the oath prescribed & giving bond with good security in the sum of twenty thousand dollars & that Bonapart Shiver A Newman Isaac & George Shiver be received as Securities

In the matter of the Instrument of writing purporting to be the last Will and Testament of Abraham Shiver decd the Caveators Burwell Shiver & Elijah Shiver & others, being dissatisfied with the Judgement of the Court admitting said Will to probate and record and having paid all cost and demanded an appeal bring Edward St George and tender him as their Security and they the said Caveators and the said Edw^d St George their

Security hereby acknowledge themselves jointly and severally bound for such further cost as may accrew [accrue] by reason of this appeal in the penalty of fifty Dollars In testimony whereof they have herewith set their hands and Seals this the 5th day of March 1844

Test
John V. Mitchell CCO

his
Burwell X Shiver (LS)
mark

Elijah Shiver (LS)

James M Kelly atty for (LS)
caveators

Edward St George (LS)

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Court of Ordinary May Term 1844

It appearing to the Court that the appeal in the case of the last will & Testament of Abraham Shiver deceased was decided in favor of Said Will & the Same having been duly proven in Open Court at the March Term last of this Court, It is ordered that the Same be admitted to record & that the Clerk do issue letters Testamentary to John J. Anderson One of the Executors named & appointed in Said Will.

And it is further ordered that John Coalson Robert S Anderson John A Wynne Ulyssus Crutchfied & Joseph Calhoun be appointed appraisers of Said Estate

In the matter of the last will &	}
Testament of Abraham Shiver dec ^d	} Appeal
& Elijah Shiver & Burwell Shiver caveators	}

The appeal in the above Stated cause having been decided in the Superior Court of this County in favor of the will It is ordered by the court that the said [will] of Abraham Shiver dc^d be admitted to probate & record and that the Clerk of this Court do issue letters Testamentary to John J Anderson one of the Executors named in Said will

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Court of Ordinary March Adjourned Term
Monday the 17th 1845

It appearing to the Court that Abraham Shiver deceased left his estate incumbered with Judgements debts at the time of his death and that there is not a sufficiency of funds in the hands of his executors to discharge the same & it further appearing by last will & testament of said deceased that his said Executors were required to pay off said debts without delay It is therefore Ordered that John J Anderson the acting Executor be and

he is hereby authorized by giving the notice required by Law to sell one Megros [*Negro*] man belonging to the Estate of said intestate for the purpose of paying said judgement debts such course being [?] in the opinion of this Court beneficial to said estate

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Court of Ordinary Nov^r Term 1845

Monday the 3rd

It appearing to the Court from a representation of John J Anderson Executor on the Estate of Abraham Shiver that said Estate is in debt and that said Executor is desirous of making sale of all the perishable property and so many of the slaves belonging to the Estate as will liquidate the demands against said estate It is therefore on motion ordered by the Court that said executor proceed to the advertisement and ale of Sufficient of the Slaves and perishable property as will cover the demands

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Court of Ordinary Nov^r 1845

Copy

On or before the first day of January next we or either of us promise to pay Charles Walker or [?] One hundred and fifty dollars for Value received (Signed

dated 1842

(Signed Abraham Shiver Jun²

Jacob Shiver

his
Abraham [blank] Shiver
mark

Georgia }

Pulaski County }

Before me John A. Wynne a Justice of the Inferior Court in and for said County personally came Charles Walker who being duly sworn deposeth and saith that the above is a copy substantially of a promissory note which was in his possession as his own property and which has been lost or destroyed and that the original [*crossed out*] amount is correct and that said not was due in January 1843 and dated sometime in the Year 1842 but the date is not exactly recollected and that the same has not been paid or any part thereof

Sworn to and Subscribed before me
this 21st day of October 1845

John A. Wynne J.I.C.

Chs [?] Walker

² Unless this is an error on the part of Charles Walker or the recorder, it seems unlikely that this note belong to Abraham, who would not have been designated as a Junior.

Inferior Court sitting for Ordinary purposes Nov^r Term 1845. Upon hearing the above affidavit it is ordered that John J. Anderson Executor of the last will & Testament of Abraham Shiver decd be fully authorised to settle with said Charles Walker & pay him the amount due as by said Copy note upon the said Charles Walker giving bond to indemnify the Estate of said Abraham Shiver against any loss by said note

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Court of Ordinary March 16th 1846

Upon the application of John J. Anderson Executor of the last will and testament of Abraham Shiver deceased for the appointment of persons for the purpose of distributing the Estate of said deceased according to the Terms of said last Will and Testament. It is ordered that Robert S Anderson John Coalson Ulyses Crutchfield John A Wynne and Edward St George freeholders of said County be and they are hereby authorized and directed to make distributions of said Estate among the distributees entitled thereto under said Will and according to its provisions and agreeably to the statute in such Cases made and provided March adjourned Term

FAMILY

TREE